

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CITY OF OAKLAND,

No. C-07-2142 EMC

Plaintiff,

v.

**ORDER RE JUNE 13, 2007, HEARING
ON CITY OF OAKLAND'S MOTIONS
TO DISMISS**

WILLIAM ABEND, *et al.*,

Defendants.

(Docket Nos. 4, 7)

The Court hereby orders the parties to be prepared to address the following questions at the June 13, 2007, hearing on the City of Oakland's motions to dismiss.

- (1) What deprivation of property (if any) occurred when:
 - (a) The City initially declared the Abends' property a nuisance on or about May 18, 2006 (*i.e.*, in the "30 Day Notice to Abate" letter)?
 - (b) The Abends' administrative appeal was denied?
- (2) What enforcement steps can the City take to abate a nuisance short of a lawsuit?
- (3) Does the Supreme Court's recent decision *Bell Atlantic Corp. v. Twombly*, 127 S. Ct. 1955 (2007), affect the analysis of the sufficiency of the Abends' complaint?

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(4) Is the Abends' takings claim premature to the extent that the Court must first adjudicate the City's nuisance enforcement action in order to determine *e.g.*, whether there is a takings?

IT IS SO ORDERED.

Dated: June 11, 2007


EDWARD M. CHEN
United States Magistrate Judge